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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,266	06/09/2006	Michael Chorny	CHOP-101US	1341

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EXAMINER	
DESAI, ANAND U	
ART UNIT	PAPER NUMBER
1656	
MAIL DATE	DELIVERY MODE
08/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/582,266	CHORNY ET AL.	
	Examiner	Art Unit	
	ANAND U. DESAI	1656	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-17,19-36 and 48-50*.
   Claim(s) withdrawn from consideration: *18,37-47 and 51*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Anand U Desai, Ph.D./
Patent Examiner, Art Unit 1656

Continuation of 11. does NOT place the application in condition for allowance because: The rejection of claims 1-17, 19-36, and 48-50 under 35 U.S.C. 102(b) as being anticipated by Schacht et al. (U.S. Patent 6,458,386 B1) is still pending. The remarks by applicant state the amended claims are drawn to a bioactive agent and a complexing agent that are joined. Thus, the complex formed due to a chemical interaction that links the bioactive agent to the complexing agent. Applicant's state that Schacht et al. does not teach or suggest such a complex. Appicant's arguments filed July 29, 2008 have been fully considered but they are not persuasive. Schacht does disclose the wound dressing fabrication in the form of microparticles. The wound dressing can contain PDGF, and dextran sulfate (see e.g., col. 6, lines 42-col. 7, line 16). The composition, wherein the biopolymer matrix further comprises one or a mixture of two or more of the following compounds: a polysulfated oligo- or polysaccharide or fragments thereof; a biocompatible polyanion which has the capacity to bind heparin-binding growth factors; a proteoglycan containing glycosaminoglycan chains capable of binding to heparin-binding growth factors; a functional analogue of heparin which binds or stabilizes heparin-binding growth factors; a monoclonal or polyclonal antibody or a microprotein wherein said antibody or microprotein has a high and selective affinity for molecular factors that can modulate the wound healing process, and wherein said microprotein can be obtained by phage display; a therapeutically effective amount of a drug; compounds having substantial affinity for the incorporated drug, so as to slow down the release of the drug from the matrix and/or stabilizing the drug. Schacht et al. disclose a controlled or slow release device comprising microparticles of a composition loaded with a drug, which can be injected intravenously, subcutaneously, or intramuscularly. The composition, wherein the polysulfated oligo- or polysaccharide is selected from one or more of the following: heparin, heparin sulfate, chondroitin sulfate, dermatan sulfate, and dextran sulfate. The composition, wherein the drug is selected from the group consisting of an EGF, a FGF, a TGF-.beta., an IGF, a PDGF, and keratinocyte cell lysate (see claims 1, 2, 12, and 19). Furthermore, the word, "join" can be reasonably interpreted to mean an association. Schacht et al. does disclose a composition with the association of a polysaccharide, dextran, with a growth factor, PDGF, in a gelatin polymer matrix (see claims 2, 12, and 19).